IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

Bail Appl..No. 1278 of 2007()

(CASE NUMBER NOT KNOWN TO THE PETITIONER)

PETITIONER:

BABU. K. MATHEW, W/O.K.M. MATHEW,
AGED 41 YEARS, VIII/637, KADACKAL HOUSE,
LITTLE PALACE LANE,
THIRUVANKULAM P.O., ERNAKULAM DISTRICT.

BY ADV. SRI.P.K.RAVISANKAR

RESPONDENTS: STATE & COMPLAINANT:
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1. **STATE OF KERALA REPRESENTED BY**
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

2. **M/S. KOTAK MAHINDRA BANK LTD.,**
   GROUND FLOOR, KUMARA PILLAI ESTATES,
   M.G. ROAD, COCHIN-682 031.

BY PUBLIC PROSECUTORMSRI. P.N. SUKUMARAN for R1
BY ADV. SRI. SOORAJ T.ELANJICKAL for R2

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 15/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.RAMKUMAR, J.

Bail Application No. 1278/2007

Dated this 15th day of March, 2007

O R D E R

In this application filed under Section 438 Cr.P.C., the petitioner who is admittedly availed of personal loans from the second respondent, Kotak Mahindra Bank Ltd., has a strange prayer to direct that in the event of arrest of the petitioner, pursuant to the non bailable warrants of arrest issued against him on the basis of a complaint filed by the said financier under Section 138 of the Negotiable Instruments Act, the petitioner shall be released on bail.

2. The second respondent has entered appearance and has filed a counter affidavit stating inter alia that the only two prosecutions now pending against the petitioner are C.C.No.2391/2006 and C.C.No.2395/2006 before the J.F.C.M-I, Ernakulam for the dishonour of two cheques. The petitioner has admittedly obtained bail in those two cases. There cannot be any anticipatory bail order issued in anticipation of a complaint.

3. As and when the second respondent files a complaint against the petitioner alleging to commission of an offence under Section 138 of the Negotiable Instruments Act, the

petitioner will have to approach the concerned Court and seek regular bail or he can seek anticipatory bail, either from the Sessions Court or from the High Court.

Preserving the above right of the petitioner, this application is dismissed.

V.RAMKUMAR,
JUDGE

mrcs